

NORTH LINCOLNSHIRE COUNCIL

LICENSING COMMITTEE

**LICENSING POLICY
SEX ESTABLISHMENTS**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To present the Sex Establishment Licensing Policy for approval following consultation. A copy of the draft policy is attached to this report at Appendix A.
- 1.2 That the policy be approved taking account of the consultation response.

2. BACKGROUND INFORMATION

- 2.1 North Lincolnshire Council has a duty to protect the public and is authorised to carry out the statutory function of issuing Licences in relation to Sex Establishments.
- 2.2 North Lincolnshire Council adopted Part II of the Local Government (Miscellaneous Provisions) Act 1982 in August 2001. Licences are issued in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which has been amended by Section 27 of the Policing and Crime Act 2009.
- 2.3 The amendment to the Local Government (Miscellaneous Provisions) Act 1982 by the Policing and Crime Act 2009 included additional activities in need of a licence. These activities include adult entertainment, such as striptease, lap dancing and pole dancing. Such activities are also licensable under the Licensing Act 2003 as regulated entertainment.
- 2.4 There is no legal requirement for the Policy, however it is considered to be best practice to have such a policy, thereby bringing the activity into line with other licensable activities. Consultation has taken place on the policy over a 13 week period, following approval by this committee on 22 March 2018. Only one comment was received, from Humberside Police, which is detailed at Appendix B.

3. OPTIONS FOR CONSIDERATION

3.1 Option 1 – This option is to approve the policy as Appendix A.

3.2 Option 2 – To option is not to approve the policy as per Appendix A.

4. ANALYSIS OF OPTIONS

4.1 Option 1 – This option is available if the committee believes the policy should be adopted.

4.2 Option 2 – This option is available if the committee believes the policy should not be adopted.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are limited financial implications from this report in that we will be required to publish the licensing policy. Any additional cost will be recovered through the licence fee.

5.2 Should the policy be agreed it will be reviewed in line with other statutory policies on a 3-yearly cycle.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 Local Government (Miscellaneous Provisions) Act 1982

6.2 Policing and Crime Act 2010

6.3 Licensing Act 2003

7. OUTCOMES OF CONSULTATION

7.1 Consultation has been carried out following approval by the Licensing Committee. Humberside Police requested two additional conditions be added to the policy.

8. RECOMMENDATIONS

8.1 That the Sex Establishment Licensing Policy is approved to include the additional conditions as detailed in 2.5.1 & 2.5.2.

DIRECTOR: OPERATIONS

Church Square House
PO Box 42
SCUNTHORPE
North Lincolnshire
DN15 6XQ
Author: Julie Dean
Date: 30 May 2019

Background Papers used in the preparation of this report – N/a



www.northlincs.gov.uk

SEX ESTABLISHMENT LICENSING POLICY

**Local Government (Miscellaneous Provisions)
Act 1982**

(June 2019)

No English?

For information please call:

08000 193530 (Arabic) للحصول على المزيد من المعلومات اتصل بـ:

তথ্যগুলি বাংলায় জানতে হলে এই নম্বরে ফোন করুন: 08000 193531 (Bengali)

欲知粵語版的消息，請致電: 08000 193532 (Cantonese)

हिन्दी में जानकारी के लिये 08000 193533 पर फोन करें (Hindi)

08000 193537 به کوردی سۆرانی ته له لێژن به ژماره (Kurdish Sorani)

Para mais informação em português contacte-nos através do telefone 08000 193538 (Portuguese)

ਪੰਜਾਬੀ ਵਿਚ ਜਾਣਕਾਰੀ ਲਈ 08000 193539 'ਤੇ ਫੋਨ ਕਰੋ (Punjabi)

"Warbixinta oo af Soomaali ah wac 08000 193540" (Somali)

08000 193541 اردو میں انفارمیشن کے لیے اس ٹیلیفون نمبر پر رابطہ فرمائیں۔ (Urdu)

Nie mówisz po angielsku? Po informacji zadzwoń pod numer 08000 195587 (Polish)

Не знаете английский? Для информации звоните 08000 195586 (Russian)

For information in large print, audio, Braille or to request a signer to speak to us please contact 01724 296296

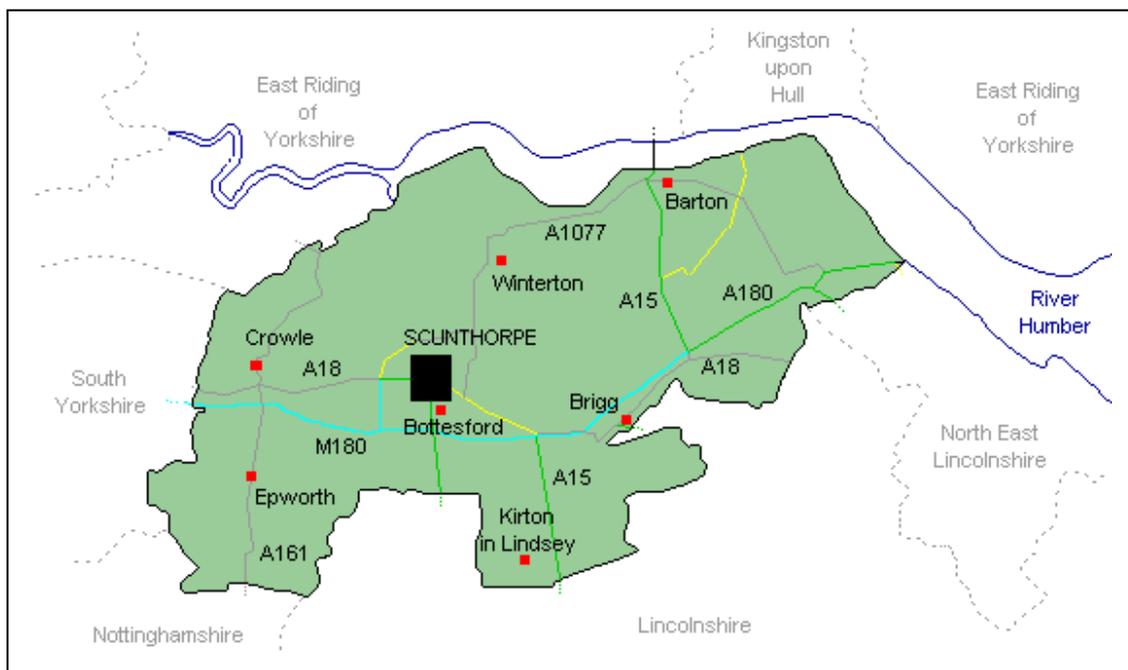
Contents

<u>Part</u>	<u>Subject</u>		<u>Page</u>
	Introduction	-	4
1	Licensing Principles, Process and Delegation	-	7
2	Licensable Functions (Sex Shops)	-	13
3	Licensable Functions (Sexual Entertainment Venues)	-	17
4	Other Statutory Provisions	-	21
		-	
5	Enforcement	-	24
	Glossary of Terms	-	26
	Appendices		
A	Useful Contacts	-	27
B	Standard Conditions – Sex Establishments	-	28
C	Standard Conditions – Sexual Entertainment Venue	-	32

Introduction

1 The Area of North Lincolnshire

- (1) North Lincolnshire covers a mix of urban and rural areas. It includes the towns of Scunthorpe, Barton upon Humber and Brigg. There are also several other market towns, villages and rural areas. Its total area is 328 square miles.
- (2) The 2011 Census gave the population of North Lincolnshire as 167,446. Of these, 76,200 live in Scunthorpe and Bottesford. The other 91,246 people live in the rural areas, which includes the towns of Barton upon Humber and Brigg.
- (3) Large concentrations of licensable activities are located in Scunthorpe town centre, in the areas of Doncaster Road, the High Street and Frodingham Road.
- (4) Below is a map of the area.



2 General Information

- (1) North Lincolnshire Council has adopted schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) in order to regulate sex shops, sex cinemas and sexual entertainment venues in the area. For the purpose of this policy, such premises shall be referred to as “sex establishments” unless otherwise stated.
- (2) The aim of this policy is to ensure the safety and welfare of those who live and work in North Lincolnshire. In doing so, it recognises the

importance of licensed businesses to the local economy and the character of the area.

- (3) North Lincolnshire Council does not take a moral stand in adopting this policy, rather it is recognised that Parliament has made it lawful to operate sex establishments and as such these businesses are a legitimate part of the retail and leisure industry.

3 Consultation

- (1) In determining this licensing policy, the Council has consulted the following people and bodies:

- Chief Constable of Humberside Police
- Chief Officer of Humberside Fire Brigade
- Grimsby Magistrates Court
- Child Protection Team
- South Humber Drug Action Team
- Neighbouring Licensing Authorities
- North Lincolnshire Tourism
- Licensed Victuallers Association (LVA)
- British Institute of Innkeepers (BII)
- Local Pub Watch Groups
- British Entertainment and Dance Association (BEDA)
- Federation of Small Businesses
- Disabled Access Groups
- Current Licence Holders
- Local & National Licensing Solicitors
- Religious and ethnic groups
- Residents Associations & Neighbourhood Watch
- Scunthorpe Charter Trustees
- Town & Parish Councils

- (2) We have also consulted various other professional people within the Council. These include:

- Heads of service
- Building Control
- Environmental Health, including:
 - Environmental Protection
 - Food & Safety
 - Waste Management
- Trading Standards
- Legal & Democratic Services
- Community Safety Partnership
- Town Centre Manager
- Cultural Strategy Officer
- Community Strategy Officer
- The Mayor's Office

- Leader of Conservative Group
- Leader of Labour Group
- Chair of Licensing Committee
- Council Members

(3) We have considered and taken into account the views of all the appropriate bodies and organisations.

4 Review of the Policy

(1) There is no statutory obligation to review this policy, however it will be reviewed every three years. At the time of the review, we will again consult all interested parties. As well as the three-yearly reviews, we will continue to evaluate the policy and may update it at any time.

5 Contacts

(1) The licensing function is part of Waste and Public Protection. Our address is:

Licensing Authority
Church Square House
PO Box 42
Scunthorpe
North Lincolnshire
DN15 6XQ

Email: licensing@northlincs.gov.uk

(2) To ask about any licensing issue, first contact the Licensing Authority: (01724) 297750. We have attached a list of useful contacts in **Appendix A**.

(3) This policy is available on our website at: www.northlincs.gov.uk.

Part 1 – Licensing Principles, Process and Delegation

Introduction

This part of the Licensing Policy is about the principles the Licensing Authority will adopt in dealing with licence applications. It explains the roles and duties the Licensing Committee and officers carry out. It tells you how the Council will deal with objections, and how we will inform applicants, and anyone making relevant representations, about our decisions, including any right to an appeal.

It also highlights the Licensing Authority's undertaking to avoid duplication with other statutory provisions and our commitment to work in partnership with other enforcement agencies.

Licensing Principles, Process and Delegation

6 Licensing Principles

- (1) The Licensing Authority aims to provide a clear, consistent licensing service to service users.
- (2) Applications will be determined where no objections are made in accordance with the delegation set out in **paragraph 7(1)**.
- (3) When considering licence applications, we will consider all relevant information. We will determine each application on its own merits. In making decisions, we will consider the activities of the premises, empathising with the needs of people living, working or engaged in normal activities nearby. The aim of the Council is to ensure that premises are well run and managed, and that licence holders consider the needs of local people.
- (4) The Council will consider applications with reference to other adopted policies. Such policies include:
 - Local Development Framework
 - Enforcement Policies
 - Community Safety Strategy
- (5) Section 17 of the Crime and Disorder Act 1998 states that Councils “must do what is reasonably necessary to prevent crime and disorder in the area”. The Council wants North Lincolnshire to be safe for everyone, irrespective of age, gender or ethnic background.

7 The Licensing Process & Delegation of Functions

- (1) The Council will delegate its licensing function either to the Licensing Committee, Licensing Sub-Committee or to an Authorised Officer of the Council. Delegation will follow the guidance stipulated by the Secretary of State, as follows:

Matter to be dealt with	Full Committee	Sub Committee	Officers
Determination of an Application for a Sex Establishment		Where a relevant objection has been received	Where no relevant objection has been received
Application for a Waiver from holding a licence		All circumstances	
Determining if an Objection is relevant			All cases
Setting Policy	All cases		
Determining relevant localities	When considered as part of setting the policy	When determining an application where a relevant objection has been made	

- (2) The Licensing Committee will deal with all matters relating to this Licensing Policy, including updates and amendments. The Committee will also set policies for other licensing functions performed by the Licensing Authority.
- (3) The Licensing Sub-Committee will deal with other licence applications if the Council has received an objection.
- (4) Where an application is referred to the Licensing Sub-Committee, members will determine each application on its own merit. Members of the Committee will consider all information on the application and the objections made.

8 Application Process

- (1) An application for a Sex Establishment Licence should be made to the Licensing Authority at the address as at **paragraph 5(1)**.

9 Plans

- (1) A plan must be attached to an application for a premises licence or a club premises certificate. The plan should be at a scale of 1:100. The plans do not have to be professionally drawn, however they must be to scale and contain the relevant information contained in the regulations. The Licensing Authority may accept plans of a scale other than 1:100, however this must be approved prior to submitting the application. Plans other than this scale will only be accepted in exceptional circumstances.
- (2) Applicants may wish to highlight the licensed area on the plan. Should they do so, then a key should be provided.

10 Advertising Applications

- (1) Applicants for a Sex Establishment Licence are required to place an advert in a locally circulating newspaper. Should this requirement not be met, then the application would be deemed incomplete.

11 Consultation on Applications for Sex Establishment Licences

- (1) Humberside Police are a statutory consultee for applications for a Sex Establishment Licence. A copy of each application will be forwarded to the Police Licensing Officer.
- (2) In addition, the Licensing Authority will notify the following responsible authorities/persons that an application has been received:
 - Ward Councillors
 - Town/Parish Councils
 - North Lincolnshire Council, including:
 - Environmental Health

- Health & Safety
 - Planning
 - Child Protection Team (or a representative)
- (3) The contact details for the aforementioned bodies are attached as **Appendix A.**

12 Objections

- (1) Objections can be made by a wide range of persons/groups. The persons/groups can include local residents, tenants associations, community associations and trade associations as well as Councillors and MPs. In addition, Councillors can represent interested parties.
- (2) Where a Councillor represents interested parties or makes an objection, then they cannot sit on the Licensing Sub-Committee determining the application.
- (3) Objections regarding an application must be made in writing, include the objectors full name and address and state which application they are objecting to. In addition, the person making the objection should clearly set out their reasons for making the said objection.

13 Relevant Objections

- (1) If an objection is received, the Licensing Authority officers will determine if an objection is relevant. This is in accordance with the scheme of delegation in the table at **paragraph 7(1)**. A board of three officers from the Licensing Authority will determine if objections are deemed to be relevant. Their decision should be unanimous if an objection is to be omitted. After the board of officers has reached a decision on an objection, a written record of the decision will show the reasons for not referring it to the Licensing Sub-Committee. If there is any doubt, officers will refer the application to the Licensing Sub-Committee.
- (2) Where an objection has been deemed irrelevant, the Licensing Authority will write to the person making the representation. It will give the full reasons for the decision.

14 Mediation

- (1) Unlike applications under the Licensing Act 2003, no attempt will be made to mediate where objections have been received. Applications will be referred to the Licensing Sub-Committee for determination at the earliest opportunity.

15 Licensing Committee & Sub Committee

- (1) Where an objection has been received, the matter will be referred to the Licensing Sub-Committee for determination. The names and

addresses of objectors will not be disclosed to the applicant or published in the committee report in accordance with the provisions contained in the Local Government (Miscellaneous Provisions) Act 1982. Such details will only be made available to the members sitting on the Licensing Sub-Committee.

- (2) North Lincolnshire Council's Licensing Committee is made up of 15 members of the Council. The Committee will meet to determine applications or policy issues only when at least 10 members are available. The Licensing Sub-Committee is to be made up of three members of the Licensing Committee.
- (3) The public must see that the Licensing Committee and Sub-Committee act in a fair and reasonable manner at all times. Therefore, all members must attend in house training before they can sit on the Licensing Committee or Sub-Committee.
- (4) Members of the Licensing Committee should not hear or decide on any applications for premises licences in their own electoral ward. If a member of the Committee has an interest in premises or knows an applicant personally, they must declare an interest. They will then take no part in the decision. This reduces conflicts of interest and the perception of bias.

16 Decisions

- (1) Following the determination of an application by the Licensing Sub-Committee, we will inform the applicant, and any objectors or people making the representation. We will then send confirmation in writing, as soon as possible after the decision, or in any case within seven days of the hearing. Along with the decision, we will inform the applicant about their right of appeal.
- (2) The Licensing Authority will provide the reasons for all decisions to the applicant and persons/statutory authorities making an objection.

17 Appeals

- (1) The Council will inform the appropriate parties of their right of appeal when confirming a decision of the Licensing Sub-Committee.
- (2) Anyone aggrieved by a decision of the Licensing Authority has a right of appeal. Aggrieved parties should lodge any appeal with the Magistrates' Court within 21 days of the notification of the decision.
- (3) Once the Magistrates' Court has determined an appeal, the Council will implement the decision within a reasonable time. The Licensing Authority appreciates that any delay could be construed as bringing the appeals system into disrepute.

18 Conditions

- (1) The standard conditions attached to a Sex Shop are at **Appendix B** to this Policy.
- (2) The standard conditions attached to a Sexual Entertainment Venue are at **Appendix C** to this Policy.

19 Integrating Strategies

- (1) Where possible, we will integrate our policy with other policies and strategies. These need to be taken into consideration as follows:
- (2) The Local Development Framework – We will look to work with Planning to ensure as far as possible that all premises have the appropriate consent.
- (3) Tourism and Town Centre Management – Our aim is to have a thriving town centre. We will look at the impact our policy has on the economy and adjust it as appropriate.
- (4) Crime Reduction Partnerships – We will work very closely with our partners to reduce crime and disorder. We will actively look at ways in which we can reduce crime and disorder and the fear of crime.
- (5) Licensing Policy under the Licensing Act 2003 – We will consider this policy when considering applications for the sale or supply of alcohol, regulated entertainment and/or late night refreshment.
- (6) Statement of Principles under the Gambling Act 2005 – We will consider this statement when considering applications for gaming in premises licensed to sell or supply alcohol.
- (7) Other Partnerships – We will work in partnership with other bodies as required.

20 Avoiding Duplication

- (1) There are areas where there is an overlap between the licensing of premises and other statutory bodies. We will try to ensure that duplication is avoided.

21 Exchange of Information

- (1) The Licensing Authority may exercise its' powers under section 115 of the Crime and Disorder Act 1998 and exchange data and information with the police and other partners in order to fulfil the statutory obligation of reducing crime and disorder in the area.

Part 2 – Licensable Functions (Sex Shops)

Introduction

This part of the Policy sets out the licensable functions under the Local Government (Miscellaneous Provisions) Act 1982 in relation to Sex Shops.

The main purpose of this section is to highlight how “significant degree” will be considered and where sex shops will be permitted.

22 Sex Shops

- (1) A sex shop licence is required for any premises, vehicle, vessel or stall used as a business where 18R films are sold or where there is a “significant degree” of sex articles sold, hired out, exchanged, lent, displayed or demonstrated.
- (2) A sex article is defined in paragraph 4(1)(b) of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

23 Significant Degree

- (1) The phrase “significant degree” is not defined in the Local Government (Miscellaneous Provisions) Act 1982.
- (2) When considering if a business is carrying out the activities as detailed in **paragraph 22(1)** to a significant degree, thus requiring a licence, the following criteria will be considered:
 - a) the ratio of sex articles to other aspects of the business;
 - b) the absolute quantity of sales;
 - c) the character of the remainder of the business;
 - d) the nature of the displays in the business;
 - e) turnover; and
 - f) other factors which appear to be materially relevant.
- (3) Once the premises has been assessed in accordance with the criteria identified in **paragraph 23(2)**, the proprietor of the premises will be informed if a licence is needed in writing.

24 Grounds for Refusal

- (1) Schedule 3, Paragraph 12 of the Local Government (Miscellaneous Provisions) Act 1982 stipulates a number of reasons to refuse a sex establishment licence. These reasons are relevant to the person applying and to the locality of the premises.

25 Relevant Localities

- (1) When considering the locality, consideration shall be given to the proximity of the following:
 - a) residential accommodation;
 - b) parks and children’s play areas;
 - c) other retail units, including their use;
 - d) schools;
 - e) religious and communal buildings; and
 - f) alcohol or entertainment licensed premises.
- (2) The factors identified in **paragraph 25(1)** will be used to determine if the location is suitable for a sex establishment licence.

- (3) Applications for the grant or renewal of a sex establishment licence can be refused where:
- a) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which we consider appropriate for the locality; or
 - b) the grant or renewal of the licence would be inappropriate, having regard to:
 - i) the character of the relevant locality; or
 - ii) the use to which any premises in the vicinity are put; or
 - iii) to the layout, character or condition of the premises.
- (4) North Lincolnshire Council recognises that due to the characteristics of different localities, some areas are not suitable for sex establishments. The following table highlights the areas and includes the number of permissible licences.

Locality	Number of Sex Shops Permitted	Reason
Residential Areas	0	It is not considered appropriate for premises to be situated in residential areas.
In the vicinity of Schools	0	It is not considered appropriate for such establishments to be located in the vicinity of schools.
In the vicinity of Religious and communal buildings	0	It is not considered appropriate for such establishments to be located in the vicinity of either religious buildings or communal buildings.
Primary Retail Area	0	It is not considered appropriate for such establishments to be located in the Primary Retail Areas in Scunthorpe or Brigg.
Secondary Retail Area	1	One premises per area may be permitted.
Mixed Retail/Light Industrial	1	One premises would be permitted per area.
Primary Entertainment Area (Scunthorpe)	0	It is not considered appropriate for such establishments to be located in the Primary Entertainment Areas.
Primary Entertainment Area (Other)	0	It is not considered appropriate for such establishments to be located in the Primary Entertainment Areas.

- (5) Any person wishing to apply for a licence should contact the Licensing Authority to determine if a proposed location is suitable in accordance with the table at **paragraph 25(4)**.

26 Length of Licence

- (1) A licence will normally be granted for a period of one year, unless there are exceptional reasons to grant the licence for a different period.

27 Waivers

- (1) Waivers from holding a licence would not normally be permitted, other than in extreme circumstances. Such circumstances could include a temporary re-location of a business following damage caused to the licensed premises. Any application for a waiver would be considered by the Licensing Sub-Committee in accordance with **paragraph 7(1)**.

28 Application Form

- (1) The application form for a sex establishment licence is available via the Licensing Authority or an application can be submitted online. Contact details are as **paragraph 5(1)**.

29 Licence Fees

- (1) The licence fees for a sex establishment licence are available from the Licensing Authority or via our website at www.northlincs.gov.uk.

Part 3 – Licensable Functions (Sexual Entertainment Venues)

Introduction

This part of the Policy sets out the licensable functions under the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 in relation to Sexual Entertainment Venues.

The main purpose of this section is to highlight how “significant degree” will be considered and where sexual entertainment venues will be permitted

30 Relevant Entertainment

- (1) Relevant sexual entertainment is defined in schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 as "...any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)". An audience can consist of one person.
- (2) In determining whether entertainment is "relevant entertainment", each case will be considered on its own merits, however the following will generally be deemed to be "relevant entertainment":
 - a) lap dancing;
 - b) pole dancing;
 - c) table dancing;
 - d) strip shows;
 - e) peep shows; and
 - f) live sex shows.
- (3) A licence must be obtained where a premises is used for relevant entertainment where the said entertainment is provided before a live audience for financial gain by either the organiser or entertainer.
- (4) Entertainment of an adult nature and entertainment not deemed to be "relevant entertainment" may still require a premises licence under the provisions of the Licensing Act 2003.

31 Grounds for Refusal

- (1) Schedule 3, Paragraph 12 of the Local Government (Miscellaneous Provisions) Act 1982 stipulates a number of reasons to refuse a sex establishment licence. These reasons are relevant to the person applying and to the locality of the premises.

32 Relevant Localities

- (1) When considering the locality, consideration shall be given to the proximity of the following:
 - a) residential accommodation;
 - b) parks and children's play areas;
 - c) other retail units, including their use;
 - d) schools;
 - e) religious and communal buildings; and
 - f) alcohol or entertainment licensed premises.
- (2) The factors identified in **paragraph 32(1)** will be used to determine if the location is suitable for a sex establishment licence.

- (3) Applications for the grant or renewal of a sex establishment licence can be refused where:
- a) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which we consider appropriate for the locality; or
 - b) the grant or renewal of the licence would be inappropriate, having regard to:
 - i) the character of the relevant locality; or
 - ii) the use to which any premises in the vicinity are put; or
 - iii) to the layout, character or condition of the premises.
- (4) North Lincolnshire Council recognises that due to the characteristics of different localities, some areas are not suitable for sex establishments. The following table highlights the areas and includes the number of permissible licences.

Locality	Number of Sexual Entertainment Venues Permitted	Reason
Residential Areas	0	It is not considered appropriate for premises to be situated in residential areas.
In the vicinity of Schools	0	It is not considered appropriate for such establishments to be located in the vicinity of schools.
In the vicinity of Religious and communal buildings	0	It is not considered appropriate for such establishments to be located in the vicinity of either religious buildings or communal buildings.
Primary Retail Areas	1	It is not considered appropriate to have more than one such establishments located in the Primary Retail Areas.
Secondary Retail Areas	1	One premises per area may be permitted.
Mixed Retail/Light Industrial	1	One premises would be permitted per area.
Primary Entertainment Areas	2	A maximum of two premises would be licensed.

- (5) Any person wishing to apply for a licence should contact the Licensing Authority to determine if a proposed location is suitable in accordance with the table at **paragraph 32(4)**.

33 Length of Licence

- (1) A licence will normally be granted for a period of one year, unless there are exceptional reasons to grant the licence for a different period.

34 Waivers

- (1) Waivers from holding a licence would not be considered appropriate for sexual entertainment venues. The legislation allows for a venue to be used for relevant sexual entertainment for a maximum of eleven occasions in a 12 month period, providing there is at least one month between each period of entertainment, which itself does not last for more than 24 hours.

35 Application Form

- (1) The application form for a sex establishment licence is available via the Licensing Authority or an application can be submitted online. Contact details are as **paragraph 5(1)**.

36 Licence Fees

- (1) The licence fees for a sex establishment licence are available from the Licensing Authority or via our website at www.northlincs.gov.uk.

Part 4 – Other Statutory Provisions

Introduction

In this part of the Policy consideration will be given to other statutes which could have an impact on Sex Establishments.

When considering the Licensing Policy and determining applications, North Lincolnshire Council has considered other statutory requirements. These include:

- The Human Rights Act 1998
- The Equality Act 2010
- Health and Safety at Work Act 1974
- Town and Country Planning Act 1990
- Health Act 2006
- Building Regulations 2000
- Licensing Act 2003
- Gambling Act 2005
- Security Industries Act 2000
- Crime and Disorder Act 1998
- Violent Crime Reduction Act 2006

In licensing sex establishments, the Council will aim to avoid duplication with other statutory requirements.

37 People with Disabilities

- (1) The Council has a positive approach to disabled access. It will actively encourage giving all disabled people access to licensed premises. We cannot attach conditions to a licence, however we will remind applicants and licence holders of the provisions of the Equality Act 2010.

38 Health & Safety

- (1) The Council will not usually attach conditions to a licence relating to current Health and Safety Legislation. The Council will, however take breaches of such legislation very seriously. Action could result in a review of a premises licence and/or review of a personal licence where a person has committed an offence under this legislation.

39 Planning

- (1) The licensing function will not be a re-run of a planning application. The issues in determining an application for a premises licence will relate to this licensing policy and the provisions contained within the Local Government (Miscellaneous Provisions) Act 1982.

40 Licensing Act 2003

- (1) Where a premises wishes to sell alcohol for consumption on or off the premises; supply it to a member of a club or their guest; provide regulated entertainment; or provide late night refreshment; then they should hold the appropriate permission. A premises licence should be obtained for premises open to the public, while either a club premises certificate or premises licence can be obtained for private members clubs. Where the event is for a temporary period, then a Temporary Event Notice (TEN) may be submitted, subject to meeting relevant criteria.
- (2) Entertainment deemed "relevant entertainment" in accordance with **paragraph 30** may also be deemed as regulated entertainment under the Licensing Act 2003.

41 Gaming Machines

- (1) Where a premises is licensed under the Licensing Act 2003 and the said premises has a bar, the premises licence holder may obtain a permit to provide gaming machines. The appropriate permit or notification must be obtained/submitted for the number of machines provided.
- (2) Premises that have two or less machines must notify the Licensing Authority that they intend to use the machines along with the

appropriate fee, while premises using three or more require a licensed premises gaming machine permit.

- (3) All machines should be sited in view of the bar.
- (4) Applications for the machines may be posted, along with the fee, to the Licensing Authority at North Lincolnshire Council.

42 Hypnotism

- (1) No exhibition, demonstration or performance of hypnotism, as defined in Section 6 of the Hypnotism Act 1952, shall be given on any person on a licensed premises except with the written consent of the Council and in accordance with any conditions attached to such consent.
- (2) The hypnotist is responsible for registering with us, however the DPS or responsible person should check that this has been done. We should have not less than 28 days notice before the intended date of the exhibition, demonstration or performance.

43 Smoking

- (1) Smoking is not permitted in those parts of the premises which are substantially enclosed in accordance with the Health Act 2006. Further guidance on smoking related issues can be obtained from the Licensing Authority.
- (2) Where a smoking shelter is provided by a premises we would recommend that the DPS or responsible person advise their patrons to have consideration to the neighbours, so as not to cause a nuisance.
- (3) We would suggest that premises who allow their patrons to smoke on the public highway take responsibility to clear away any smoking related litter and provide an Ash Bin where possible.

Part 5 – Enforcement

Introduction

This section of the Licensing Policy details the Council's commitment to enforcing the provisions contained within the Local Government (Miscellaneous Provisions) Act 1982. The Council has signed up to the Enforcement Concordat.

It also highlights the Council's commitment to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.

44 General

- (1) The principal aim of the Licensing Authority when dealing with Sex Establishments is to ensure that they are in compliance with current legislation.
- (2) Enforcement will be carried out in accordance with the Compliance Code set out under the Legislative and Regulatory Reform Act 2006.

45 Complaints

- (1) The Council will investigate all complaints about licensed premises. Complainants will firstly be encouraged to raise the complaint with the licensee or business concerned. Failing this, the Council will then arrange a mediation meeting to try to resolve any issues.
- (2) This process will not override the right of any interested party to ask that the Licensing Sub Committee to consider any valid objections and have the licence reviewed. A licence holder and/or DPS may decline an invitation to such a mediation meeting.

46 Prosecutions

- (1) Prosecution will be seen as a last resort. The aim of the Licensing Authority is to promote compliance with the appropriate legislation. Where compliance is not forthcoming, then the appropriate action will be taken.

47 Enforcement Protocols

- (1) We will work very closely with other enforcement agencies. We will develop enforcement protocols during the period of this policy. The protocols will be referred to the Licensing Committee for approval once they have been agreed by the licensing forum.

Glossary of Terms

- “we” - means North Lincolnshire Council
- “BBFC” - means British Board of Film Classification
- “Consent of the Council” - means written consent or approval by the Council
- “DPS” - means Designated Premises Supervisor
- “Licensing Committee” - means a group of between 10 and 15 members of North Lincolnshire Council who will deal with Licensing Policy Issues
- “Licensing Sub-Committee” - means a group of 5 members of North Lincolnshire Council who will deal with Licence Applications where there is an objection
- “Magistrates' Court” - means Grimsby Magistrates' Court
- “Statutory Provisions” - means laws passed by Parliament

Appendix A

The Licensing Authority & other Responsible Authorities	
<p>Licensing Authority: North Lincolnshire Council Licensing Authority Church Square House PO Box 42 Scunthorpe North Lincolnshire Email: licensing@northlincs.gov.uk</p>	<p>Humberside Police: The Chief Superintendent Humberside Police Licensing Department Priory Road Police Station Hull HU5 5SF Email: Communitieslicensing@humberside.pnn.police.uk</p>
<p>Health & Safety: Team Leader (Food & Safety) Church Square House Scunthorpe North Lincolnshire DN15 6XQ Email: food.safety@northlincs.gov.uk</p>	<p>Planning and Regeneration: Development Control Manager Planning & Regeneration Service Church Square House Scunthorpe North Lincolnshire DN15 6XQ Email: planning@northlincs.gov.uk</p>
<p>Child Protection Team: ACPC Administrator Local Safeguarding Childrens Board Cambridge House Cambridge Road Scunthorpe North Lincolnshire DN16 3LG Email: IndependentReviewTeam@northlincs.gov.uk</p>	<p>Trading Standards: Team Leader (Trading Standards) Church Square House Scunthorpe North Lincolnshire DN15 6XQ Email: trading.standards@northlincs.gov.uk</p>
<p>Humberside Fire & Rescue Service: Chief Fire Officer Humberside Fire and Rescue Service Fire Safety Laneham Street Scunthorpe North Lincolnshire DN15 6JP</p>	<p>Environmental Health: Church Square House Scunthorpe North Lincolnshire DN15 6XQ Email: environmental.health@northlincs.gov.uk</p>
<p>British Waterways Board address (for vessels only): British Waterways Board Willow Grange Church Road Watford Hertfordshire WD17 4QA Tel: 01923 201101</p>	<p>Health & Safety Executive address (for all local authority buildings and grounds): Health & Safety Executive Foundry House 3 Millsands Riverside Exchange Sheffield S3 8NH Tel: 0114 291 2347</p>



WASTE AND PUBLIC PROTECTION

CONDITIONS ATTACHED TO LICENCE NO. «LREF»

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

CONDITIONS FOR THE CONTROL OF SEX ESTABLISHMENTS

The following conditions shall be attached to and shall form part of any licence issued in accordance with Section 2 and Schedule 3 of the Act.

1. A copy of the licence and any conditions made by the Authority must be kept and exhibited in a conspicuous place.

DEFINITIONS

2. Sex Article – Anything made for use in connection with, or for the purpose of stimulating or encouraging
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
 - (iii) any article containing or embodying matter to be read or looked at, or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (iv) to any recording vision or sound, which:
 - [a] is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - [b] is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.
3. Designated Area – refers to that part of the premises used for the selling, hiring, exchanging, lending, displaying or demonstrating:
 - (i) sex articles; or
 - (ii) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
 - [a] sexual activity; or

- [b] acts of force or restraint which are associated with sexual activity.

CONTROL AND CONDUCT OF THE PREMISES

4. The licensee shall retain control over all parts of the premises and shall operate the designated area of the premises exclusively as a sex shop as stated in the licence unless otherwise agreed in writing by the Council.
5. The licensee or some other responsible person (not under the age of 18 years) nominated by him in writing for the purpose shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nomination shall be continuously available for inspection by an Authorised Officer of the Council or the Police. The person in charge shall not be engaged in any duties which will prevent him/her exercising general supervision.
6. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the Licensing Authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
7. A copy of the licence and associated conditions shall be prominently displayed in the premises.
8. Any premises, vehicle, vessel or stall to which these conditions apply:-
 - (a) Shall not be open to the public for any of the purposes of the licence except
 - between and on Mondays
 - between and on Tuesdays
 - between and on Wednesdays
 - between and on Thursdays
 - between and on Fridays
 - between and on Saturdays
 - between and on Sundays
 - (b) The premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.
9. The Licensee shall maintain good order in the premises.
10. The Licensee shall ensure that there is no nuisance or annoyance to neighbouring residents or commercial occupiers, arising from noise emanating from the premises.

11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the premises.
12. No person under the age of 18 years shall be admitted to the designated area of the premises at any time.
13. An Authorised Officer of the Council shall be admitted immediately to all parts of the premises at all reasonable times.
14. A Police Officer shall at any reasonable time be permitted to enter and inspect the said establishment.

THE PREMISES AND EQUIPMENT

15. The operator shall ensure that at all times the designated area of the premises shall be shielded in such a way that the interior of the designated area and the contents cannot be seen from the highway, and there shall be no display of any sex article, related material or literature in any window which is visible from the highway.
16. The following shall be displayed once only on the outside of the premises, and once only at the entrance to the designated area at a height of not more than 3 metres from ground level:-
 - (i) In letters not less than 150mm high, the words “NO PERSON UNDER THE AGE OF 18 SHALL BE ADMITTED TO THESE PREMISES”.
17. No other form of display of notices, fascias, illuminated signs or advertisements of any description relating to the sex establishment licensed area either on or in the premises shall be permitted without the consent in writing from the Council.
18. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
19. All sex articles and other things displayed for sale, hire, exchange or loan within the Premises shall be clearly marked to show the price being charged.
20. All printed material offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the Premises.
21. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
23. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

25. No access shall be permitted through the Premises to any other Premises adjoining or adjacent, except in the case of emergency.
26. Lighting shall be in operation continuously during the whole of the time that the establishment is open to the public.
27. Alterations or additions, either internal or external, shall be not be made to the Premises without prior written consent from the Licensing Authority.
28. No fastenings of any description shall be fitted upon any booth or cubicle within the establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
29. The Licensee shall institute steps to check the age of customers entering the establishment who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18.
30. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.
31. All parts of the premises and any yard shall be kept in a clean condition to the satisfaction of the Council.

OFFENCES

32. Failure to exhibit in a conspicuous place a copy of the licence and any regulations made by the Authority without reasonable excuse is an offence punishable by a fine of up to level 3 on the Standard Scale.
33. A person who:-
 - (i) Being a Licensee, employs in the business of that establishment any person known to him to be disqualified from holding such a licence; or
 - (ii) Being a Licensee, without reasonable excuse, knowingly contravenes or permits the contraventions of a term, condition or restriction; or
 - (iii) Being the servant or agent of a Licensee who without reasonable excuse knowingly contravenes or permits the contravention of a term, condition or restriction; and
 - (iv) Any Licensee who without reasonable excuse knowingly employs or permits a person under 18 years of age to enter the establishment shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20,000.



WASTE AND PUBLIC PROTECTION

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

CONDITIONS ATTACHED TO LICENCE NO. <LREF>

CONDITIONS FOR THE CONTROL OF SEXUAL ENTERTAINMENT VENUES (Striptease, Lap Dancing, Table Dancing and similar entertainment)

The following conditions shall be attached to and shall form part of any licence issued in accordance with the above Act as amended by the Policing and Crime Act 2009

1. The authorised entertainment must only take place in designated areas approved by the Council.

CONTROL AND CONDUCT OF THE PREMISES

2. Customers and performers must be properly supervised at all times.
3. An appropriate number of stewards, agreed in writing with the Council, must be provided to properly supervise the premises and maintain order.
4. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
5. No performers and other employees on the premises during the authorised entertainment shall be under 18 years of age.
6. No person under the age of 18 years shall be permitted to view the entertainment.
7. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The Licensee must provide prominent notices at each entrance to the Premises to this effect.

8. House rules shall be developed and actively promoted to control the behaviour of the performers and customers (copies to be forwarded to the Licensing Authority).
9. A notice should also be displayed at the main entrance, at each table and in the bar area informing customers of the house rules that affect them and a warning that entertainment involving unclothed male and/or female performers is provided within the premises.
10. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful or offensive manner.
11. The Licensee shall not permit the display outside of the Premises, of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.
12. No part of the performance shall be visible from outside the premises.
13. Performers shall only perform to seated customers on the stage area, or in such other areas of the licensed Premises as may be agreed in writing with the Council.
14. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council.
15. Performers must dress appropriately at the end of each performance.
16. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
17. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a performance.
18. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
19. Performers are never to be in the company of a customer except in an area open to the public within the Premises (excluding the toilets).
20. Suitable changing rooms with restricted access should be provided for performers, separate from customers and other staff, where they may prepare for their performance.
21. Safe and controlled access to the dressing room for performers must be maintained at all times when the performance is taking place and immediately afterwards.

22. The Licensee must ensure that during the performance of a table dance:
- (i) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a performer can start a table dance;
 - (ii) customers must remain seated during the entire performance of the dance;
 - (iii) customers must not be permitted to participate in the entertainment,
 - (iv) for the purpose of restraint only, performers may only touch a customer above the customer's chest with their hands only;
 - (v) performers must not sit or straddle the customer;
 - (vi) performers must not place their feet on the seats.
23. The Licensee must ensure that during performances to which this Licence relates:
- (i) no performer should perform any sexually explicit or lewd act;
 - (ii) no performance shall involve the provocative use of live animals or other props;
 - (iii) no performance shall involve any physical contact between each performer;
 - (iv) performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (v) performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (vi) performers must never intentionally touch the genitals or breasts of another performer or to knowingly permit another performer to intentionally touch their genitals or breasts;
 - (vii) performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act;
 - (viii) performers may only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
24. The Licensee must ensure that during performances to which this Licence relates:
- (i) customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment;
 - (ii) customers must remain appropriately clothed at all times.
25. The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Humberside Police, and that any images are:
- (i) retained for a period of at least 28 days; and
 - (ii) made available on request to a police officer or authorised officer of the Council.

From: Blackwood, Doug 5579 <Doug.Blackwood@humberside.pnn.police.uk>
Sent: 04 February 2019 11:38
To: Licensing
Subject: Sex Establishment Policy -

Dear Sir,

With reference to your review of the Sex Establishment Licensing Policy
<https://www.northlincs.gov.uk/wp-content/uploads/2019/01/Sex-Establishment-Licensing-Policy-2010.pdf> .

Please can both conditions –

Control of Sex Establishments, Condition 31 -

The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.

Control of Sexual Entertainment Venues Condition 25 -

The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Humberside Police, and that any images are: (i) retained for a period of at least 28 days; and (ii) made available on request to a police officer or authorised officer of the Council.

Be amended to the below –

The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Humberside Police as per recognised Home Office requirements as detailed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378449/09-05-UK-Police-Requireme22835.pdf, coverage is to include internal and external areas including car parks and entrances and exits, and that any images are:

- (i) retained for a period of at least 31 days; and
- (ii) covers the entrance and exit of the premises providing coverage and capture of facial features at a resolution suitable for identification.
- (iii) comply with the Surveillance Camera Commissioners Code of Practice.
- (iv) made available on request immediately to a police officer or authorised officer of the Council. Suitable available media product to provide a working and master copy of any incident is kept with the system and all managers are trained and able to work the system.
- (v) system is password protected with an audit feature to identify usage.